

Dalhousie Law Journal

Volume 37
Issue 1 37:1 (2014) *Special Issue: 4th East
Coast Seminar of the Canadian Energy Law
Foundation*

Article 12

4-1-2014

Troubling Feelings: Moral Anger and Clinical Legal Education

Sarah Buhler
University of Saskatchewan

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Recommended Citation

Sarah Buhler, "Troubling Feelings: Moral Anger and Clinical Legal Education" (2014) 37:1 Dal LJ 397.

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Many law students experience strong and sometimes difficult emotions during their time in clinical law programs: sadness at clients' stories of trauma, excitement about a victory in court, or anger at the injustices faced by clients. In this article, I focus on the emotion of "moral anger," or "moral outrage" experienced by lawyers and students in clinical contexts, and consider how educators and students might address manifestations of moral anger in clinical law contexts in ways that ignite a critical and social-justice oriented approach to legal practice. By drawing on theoretical insights from the emerging field of critical emotion studies, I argue that a critical analysis of the role of moral anger in clinical legal education reveals its potential as an agent of transformation, but also signals a need for clinical educators to be wary of an uncritical understanding of this strong emotion. Drawing on the work of Michalinos Zembylas, Sara Ahmed, and others, I propose that clinical law students and teachers should seek to engage in critical "readings" of moral anger—interpretations that acknowledge the role of strong emotions in legal practice, and then interrogate the meaning of these feelings in light of community context, power relations, and history. Such an approach, I argue, can literally "move" us into deeper understandings and potentially more meaningful and collaborative social-justice oriented practices.

Beaucoup d'étudiants en droit éprouvent des émotions fortes, parfois difficiles à vivre, lors des entrevues réalisées pendant le programme de cliniques : tristesse face aux drames vécus par les clients, enthousiasme à la suite d'une victoire devant le tribunal, colère devant l'injustice dont sont victimes les clients. Dans cet article, l'auteure traite de la colère et de l'indignation qu'éprouvent les avocats et les étudiants dans ces contextes cliniques; elle se demande comment, dans ces contextes, éducateurs et étudiants peuvent réagir à la colère et à l'indignation d'une manière qui les incite à adopter une approche critique et axée sur la justice sociale dans leur pratique du droit. S'inspirant de points de vue qui ressortent du domaine émergent d'études des émotions critiques, elle avance qu'une analyse critique du rôle de la colère et de l'indignation dans l'éducation juridique révèle son potentiel d'être un facteur de transformation. Cependant, elle signale aussi la nécessité pour les éducateurs cliniques de se méfier d'une acceptation de cette émotion forte sans aucun regard critique. Se fondant sur les travaux de Michalinos Zembylas, de Sara Ahmed et d'autres auteurs, l'auteure propose que les étudiants et les professeurs de droit clinique cherchent à faire une lecture critique de la colère et de l'indignation, à en faire une interprétation qui prend en compte le rôle des émotions fortes dans la pratique du droit puis qu'ils s'interrogent sur la signification de ces sentiments dans le contexte communautaire et dans celui des relations de pouvoir et de l'histoire. L'auteure prétend qu'une telle approche peut littéralement nous amener à une compréhension approfondie et nous inciter à adopter des pratiques plus significatives axées sur la collaboration et sur la justice sociale.

* Assistant Professor, University of Saskatchewan College of Law.

Introduction

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Introduction

Many law students experience strong and sometimes difficult emotions during their time in clinical law programs: sadness at clients' stories of trauma, excitement about a victory in court, or anger at the injustices faced by clients. Clinical experiences, writes Sara Chandler, "expose students to emotional settings not normally experienced in law school; the challenge of handling their own and other people's emotions in difficult and sometimes harrowing situations."¹ While various writers have identified clinical legal education's role in addressing issues relating to the emotional dimensions of legal practice,² and while there is a burgeoning interest in "law and

1. Sara Chandler, "Can Litigators Let Go? The Role of Practitioner-Supervisors in Clinical Legal Education Programmes" in Paul Maharg & Caroline Maughan, eds., *Affect and Legal Education: Emotion in Learning and Teaching the Law* (Burlington, VT: Ashgate, 2011) 87 at 88.

2. See, e.g.: Philip Plowden, who wrote that clinical work "puts the emotional content back into law": Philip Plowden, "Clinical Legal Education: Theory, Practice and Possibilities," *UK Centre for Legal Education* (4 June 2010), online: UK Centre for Legal Education <<http://www.ukcle.ac.uk/resources/teaching-and-learning-practices/plowden>>. See also Marjorie A Silver, Sanford Portnoy & Jean Koh Peters, "Stress, Burnout, Vicarious Trauma, and other Emotional Realities in the Lawyer/Client Relationship" (2004) 19 *Touro L Rev* 847; Laurel E Fletcher & Harvey M Weinstein, "When Students Lose Perspective: Clinical Supervision and the Management of Empathy" (2002) 9 *Clinical L Rev* 135; and Ann Juergens, "Practicing what We Teach: The Importance of Emotion and Community Connection in Law Work and Law Teaching" (2005) 11 *Clinical L Rev* 413.

emotions” scholarship,³ the role of emotions in legal education generally, and in clinical legal education in particular, remains under-theorized.⁴ In this article, I focus on the emotion of “moral anger” or “moral outrage” experienced by lawyers and students in clinical contexts. I consider how educators and students might address manifestations of moral anger in clinical law contexts in ways that ignite a critical and social-justice oriented approach to legal practice.⁵

Moral anger has been described by Roger Giner-Sorolla as a type of anger that emerges from “judgments that other people are violating justice norms: harming others, violating their rights, or being unfair.”⁶ It is conceived as a reaction to a perceived injustice, drawing on “rules of blame and fairness, taking into account the legitimacy of claims, intentionality of action...and generally working with the concept of rights.”⁷ The concept of moral anger has perhaps most famously been evoked by Aristotle’s aphorism that anyone “who does not get angry when there is reason to be angry, or does not get angry in the right way at the right time and with the right people, is a dolt.”⁸ Moral anger is a profoundly political emotion, because, as Michalinos Zembylas points out, it “involves making judgments about what constitutes injustice, what expressions are

3. See, e.g.: Terry A Maroney, “Law and Emotion: A Proposed Taxonomy of an Emerging Field” (2006) 30 *Law and Hum Behav* 119; Kathryn Abrams & Hila Keran, “Who’s Afraid of Law and the Emotions?” (2010) 94 *Minn L Rev* 1997; Susan A Bandes, ed, *The Passions of Law* (New York: New York University Press, 1999); Martha C Nussbaum, *Hiding from Humanity: Disgust, Shame, and the Law* (Princeton: Princeton University Press, 2004); Richard Delgado, “Recent Writing on Law and Happiness” (2012) 97 *Iowa L Rev* 912; Kathryn Abrams, “Barriers and Boundaries: Exploring Emotion in the Law of the Family” (2009) 16 *Va J Soc Pol’y & L* 301; Katharine K Baker, “Gender and Emotion in Criminal Law” (2005) 28 *Harv J L & Gender* 447; and Hilliard Aronovitch, “The Role of Emotions in the Rule of Law” (2007) 57 *UTLJ* 781.

4. A recent exception is the book *Affect and Legal Education: Emotion in Learning and Teaching the Law*, *supra* note 1. See also Grant H Morris, “Teaching with Emotion: Enriching the Educational Experience of First-Year Law Students” (2010) 47 *San Diego L Rev* 465.

5. Clinical legal education has long been associated with social justice and critical approaches to legal practice. See, e.g., Shin Imai, “A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering” (2002) 9 *Clinical L Rev* 195; Rose Voyvodic & Mary Medcalf, “Advancing Social Justice Through an Interdisciplinary Approach to Clinical Legal Education: The Case of Legal Assistance of Windsor” (2004) 14 *Wash UJL & Pol’y* 101; Phyllis Goldfarb, “A Theory–Practice Spiral: the Ethics of Feminism and Clinical Legal Education” (1990) 75 *Minn L Rev* 1599 at 1646; and Jon C Dubin “Clinical Design for Social Justice Imperatives” (1998) 51 *SMU L Rev* 1461 at 1465.

6. Roger Giner-Sorolla, *Judging Passions: Moral Emotions in Persons and Groups* (London: Psychology Press, 2012) at 88.

7. *Ibid* at 93.

8. Quoted in Elizabeth V Spelman, “Anger and Insubordination” in Ann Garry & Marilyn Pearsall, eds, *Women, Knowledge, and Reality: Explorations in Feminist Philosophy* (Boston: Unwin Hyman, 1989) 263 at 263.

appropriate, and under what circumstances.”⁹ In the context of clinical and poverty law, the role of moral anger is described as follows by Abbe Smith:

You cannot represent the poor without finding occasion for outrage. The outrages just keep coming. They prevail. They reign. And if you pay attention to the outrageous things that are routinely inflicted on the poor...you will be driven to act. You will be inspired.¹⁰

Moral anger is a particularly important emotion to consider in the context of legal education because it is so closely connected to notions of justice and injustice, which are central concerns of law. A number of authors have detailed the complicated interconnections between emotions, including moral anger, and legal decision-making.¹¹ This scholarship posits that feelings, including outrage about injustice, can and do shape the actions of lawyers and judges. As Robert Solomon argues, “[t]he idea that justice requires emotional detachment, a kind of purity suited ultimately to angels [and] ideal observers...has blinded us to the fact that justice arises from and requires...feelings.”¹² However, the fact remains that lawyers and judges rarely acknowledge the role of moral outrage in legal decision-making or legal practice. As I will discuss below, dominant legal discourse constructs emotions as falling utterly outside the boundaries of law and therefore holding scant, if any, relevance to the work of lawyers. These dominant assumptions about the irrelevance of emotions in legal processes are associated with a tendency among some lawyers to suppress expressions of emotions in legal contexts and to cultivate a technocratic affect and approach to practice.¹³

The suppression and management of emotions in general, and moral anger in particular, is particularly significantly in clinical law contexts. If,

9. Michalinos Zembylas, *The Politics of Trauma in Education* (New York: Palgrave Macmillan, 2008) at 127.

10. Abbe Smith, “Too Much Heart and Not Enough Heat: the Short Life and Fractured Ego of the Empathic, Heroic Public Defender” (2004) 37:5 UC Davis L Rev 1203 at 1259-1260.

11. See Laura E Little, “Adjudication and Emotion” (2002) 3 Fla Coastal LJ 205; Todd E Pettys, “The Emotional Juror” (2007) 76 Fordham L Rev 1609; Sharyn Roach Anleau & Kathy Mack, “Magistrates’ Everyday Work and Emotional Labor” (2005) 32 JL & Soc’y 590; Terry A Maroney, “Emotional Regulation and Judicial Behavior” (2011) 99 Cal L Rev 1485; Susan A Bandes, “Moral Imagination in Judging” (2011) 51 Washburn LJ 1; Samuel H Pillsbury, “Emotional Justice: Moralizing the Passions of Criminal Punishment” (1989) 74 Cornell L Rev 655; Lynne Henderson, “Legality and Empathy” (1987) 85 Mich L Rev 1574.

12. Robert C Solomon, *A Passion for Justice: Emotions and the Origins of the Social Contract* (Oxford: Rowman & Littlefield, 1995) at 34.

13. See Philip C Kissam, *The Discipline of Law Schools: the Making of Modern Lawyers* (Durham: Carolina Academic Press, 2003) at 96-98 and, generally, Margaret Thornton, “Technocentrism in the Law School: Why the Gender and Colour of Law Remain the Same” (1998) 36 Osgoode Hall LJ 369.

as Sara Ahmed writes (referencing Audre Lorde), the emotion of anger “involves imagining a different kind of world in its very ‘energy,’”¹⁴ then it has the potential to be a powerful tool in transformative and politically-charged learning about justice. By drawing on theoretical insights from the emerging field of critical emotion studies, I argue that it is important to acknowledge and carefully examine the troubling emotion of moral anger in clinical legal education contexts. I argue that a critical analysis of the role of moral anger in clinical legal education reveals its potential as an agent of transformation, but also signals a need for clinical educators to be wary of an uncritical understanding of this strong emotion. As Michalinos Zembylas points out, it is important to remain aware that “anger is not inevitably emancipatory but ambivalent, because it is part of an ongoing struggle of power relations.”¹⁵ Drawing on the work of Michalinos Zembylas, Sara Ahmed, and others, I propose that clinical law students and teachers should seek to engage in critical “readings” of moral anger—interpretations that acknowledge the role of strong emotions in legal practice, and then interrogate the meaning of these feelings in light of community context, power relations, and history. Such an approach, I argue, can literally “move” us into deeper understandings and potentially more meaningful and collaborative social-justice oriented practices.¹⁶

I. *Critical emotion studies*

Emotions are often theorized as private, biologically determined experiences of individuals and of little concern to the “public” sphere of social relations, politics, and culture. Certainly, Western thought has long constructed a sharp dichotomy separating “reason” from “emotion.” Alison Jaggar writes that “[n]ot only has reason been contrasted with emotion, but it has also been associated with the mental, the cultural, the universal, the public, and the male, whereas emotion has been associated with the irrational, the physical, the natural, the particular, the private, and, of course, the female.”¹⁷ Similarly, Paul Mahrag and Caroline Maughan note that emotion has long been positioned as being “antithetical to core Western ideals of rationality.”¹⁸

14. Sara Ahmed, *The Cultural Politics of Emotion* (New York: Routledge, 2004) at 175.

15. Zembylas, *supra* note 9 at 120.

16. Ahmed writes about the “moving” nature of emotions: see *supra* note 14 at 171.

17. Alison M Jaggar, “Love and Knowledge: Emotion in Feminist Epistemology” in Ann Garry & Marilyn Pearsall, eds, *Women, Knowledge, and Reality: Explorations in Feminist Philosophy* (Boston: Unwin Hyman, 1989) 129 at 129.

18. Paul Mahrag & Caroline Maughan, “Introduction” in Paul Mahrag & Caroline Maughan, eds, *Affect and Legal Education: Emotion in Learning and Teaching the Law* (Burlington, VT: Ashgate, 2011) at 1.

However, the idea of emotions as “natural” and biologically-driven responses and the corresponding construct of a reason-emotion binary has been challenged with the emergence of the interdisciplinary field of critical emotion studies, which focuses on critical social constructionist accounts of emotions. Critical emotion studies theorists assert the social nature of emotions and explore how emotions are culturally produced and mediated. That is, critical emotions theory opens up the notion that our emotional responses are not simply innate but rather are mediated through dominant norms and cultural expectations. In other words, “individual experience [of emotions] is simultaneously social experience.”¹⁹ For example, Arlie Hochschild introduces the notion of “feeling rules” that define dominant social expectations about “what we should feel in various circumstances.”²⁰ Emotions are thus constructed as “stances toward the world, emblematic of the individual’s apprehension of it and moral position within it.”²¹ Critical emotions theorists also argue that, while being culturally constructed, emotions are structuring forces in their own right. In other words, emotions produce moral and cultural stances towards the world, even as they are simultaneously socially produced.²² Sara Ahmed describes it this way:

Focusing on emotions as mediated rather than immediate reminds us that knowledge cannot be separated from the bodily world of feeling and sensation; knowledge is bound up with what makes us sweat, shudder, tremble, all those feelings that are crucially felt on the bodily surface, the skin surface where we touch and are touched by the world.²³

As both Simon Williams and Stepfan Mestrovic point out, in the current hyper-capitalist era of spectacle and consumption, emotions are perpetually manipulated, marketed, and manufactured through dominant media and news images.²⁴ Indeed, social theorist Mestrovic asserts that we now live in a “postemotional age” where our feelings are primarily

19. Jaggar, *supra* note 17 at 136. See also Simon Williams, *Emotion and Social Theory* (London: Sage Publications, 2001) at 45 and Lisa Langstraat & Melody Bowdon, “Service-Learning and Critical Emotion Studies: On the Perils of Empathy and the Politics of Compassion” (2011) *Mich J of Community Service Learning* 5 at 6.

20. Arlie Russell Hochschild, “The Sociology of Feeling and Emotion: Selected Possibilities” in Marcia Millan & Rosabeth Moss Kanter, eds, *Another Voice: Feminist Perspectives on Social Life and Social Science* (New York: Anchor Books, 1975) 280 at 289.

21. Joanne Finklestein, “Considerations for a Sociology of the Emotions” (1980) 3 *Studies in Symbolic Interaction* 111 at 119.

22. *Ibid.* See also Williams, *supra* note 19 at 49.

23. Ahmed, *supra* note 14 at 171.

24. See Williams, *supra* note 19 at 112, and Stjepan G Mestrovic, *Postemotional Society* (London: SAGE Publications, 1997) at 1-7.

manufactured and mechanized by mass media and dominant culture.²⁵ In this way, emotions function to perpetuate the relentless cycle of consumerism and the concomitant neoliberal economic order: according to critical emotions theorists, emotions are thus intimately tied to political ideologies. As Nikolas Rose concludes:

Social conventions, community scrutiny, legal norms, familial obligations and religious injunctions have exercised an intense power over the human soul...Thoughts, feelings, and actions may appear as the very fabric and constitution of the intimate self, but they are socially organized and managed in minute particulars.²⁶

Thus, ideas about “acceptable” emotions function as a form of what Foucault calls “technologies of the self,” which work to regulate behaviour and induce conformity to dominant ideologies.²⁷

In addition to pointing out the political, cultural and ideological functions and sources of emotions, critical emotions theorists also fundamentally challenge the notion of a neat reason—emotion binary. Critical emotion theorists assert that emotions are fundamentally intertwined in all actions and decision-making processes. Given the social construction of emotions, individuals may be “reasoned ‘in’ and ‘out’ of their emotions depending on whether or not they are deemed reasonable and appropriate or unreasonable and inappropriate.”²⁸ Critical emotions scholars, such as Boler,²⁹ many drawing on feminist theoretical frameworks, point out that claims to rationality are more often than not assertions of power and ideology that function to discount and silence alternate and subversive accounts of social reality.

With respect to feelings of outrage at injustice, critical emotions scholars theorize that the emotion of anger is not simply a feeling that emerges unmediated or unbounded by cultural narratives about justice and injustice. Rather, as Rom Harre writes, “to be angry is to have taken on an angry role on a particular occasion as the expression of a moral position.... The bodily feeling is often the somatic expression to oneself of the taking of a moral standpoint.”³⁰ Whether one feels moral anger and what one

25. Mestrovic, *ibid* at 1.

26. Nikolas Rose, *Governing the Soul: The Shaping of the Private Self* (London: Routledge, 1990) at 17.

27. See discussion about Foucault’s notion of “technologies of the self” in Anthony Elliot, *Concepts of the Self* (Cambridge: Polity Press, 2001) at 82.

28. Williams, *supra* note 19 at 47.

29. Megan Boler, *Feeling Power: Emotions and Education* (New York: Routledge, 1999) at 1.

30. Rom Harre, *Physical Being: A Theory for a Corporeal Psychology* (Oxford: Basil Blackwell, 1991) at 142-143.

chooses to do about this feeling is thereby a function of cultural, moral, and political scripts that literally "move" the body and actions in the world in particular ways.³¹ Critical emotions theorists thus point out that dominant discourses and practices regarding appropriate expressions of anger can be politically significant in that they focus on producing "feeling rules that are socially and culturally determined" and do not threaten dominant ideologies and systems.³²

II. *Disciplined emotions in legal education and legal practice*

1. *Dominant approaches: the rational and technocratic lawyer*

The notion of a split between reason and emotion is replicated within dominant Western legal epistemology and pedagogies. However, emotions are interpreted, regulated, and disciplined in particular ways in the context of law schools and legal practice. The privileging of rational and technical modes of reasoning in dominant law school pedagogies devalues and actively discourages modes of discourse based on emotion and experience. Emotions are often viewed within dominant approaches to legal reasoning as dangerous and corruptive. As Terry Maroney writes, "[a] core presumption underlying modern legality is that reason and emotion are different beasts entirely: they belong to separate spheres of human existence; the sphere of law admits only of reason; and vigilant policing is required to keep emotion from creeping in where it does not belong."³³ Similarly, Martha Minow and Elizabeth Spelman note: "In law, for at least a century, the devotion to such a model of reason treats any attention to intuition, to experience...[to] passions, as corruption. Emotion and passion signify evil, danger, and threat of disorder."³⁴

The assumption that emotions play no legitimate role in legal thought tends to be reproduced in legal education. Indeed, the much-vaunted process of "thinking like a lawyer" is often portrayed in law schools as including little room for emotion, experience, or non-Western epistemologies. Law school pedagogies tend to insist upon the separation of "thinking" and "feeling," and law students quickly learn that outbursts of passion and emotion, including expressions of outrage at injustice, are generally not well-received in law school classrooms. As the writers of the

31. Ahmed, *supra* note 14 at 171.

32. Zembylas, *supra* note 9 at 119.

33. Maroney, *supra* note 3 at 120.

34. Martha L. Minow & Elizabeth V. Spelman, "Passion for Justice" (1988) 10 Cardozo L. Rev. 37 at 41. Certainly, women were traditionally associated with the irrational and the emotional, and this played a role in the historic exclusion of women from the legal profession. For a further discussion of the prevalence of the "technocratic affect" and the implications of these for diversity in the profession, see Thornton, *supra* note 13.

Carnegie Report on legal education observed, law students in American and Canadian law schools are “told to set aside their desire for justice. They are warned not to let their moral concerns or compassion for the people in the cases they discuss to cloud their legal analyses.”³⁵ Similarly, in her study of linguistic and rhetorical strategies within law schools, Elizabeth Mertz notes that appeals to emotion by law students tended to be quickly suppressed by professors and fellow students within the first-year classes she observed.³⁶ The law students in Mertz’s study quickly learned that appeals to senses of moral outrage or feelings about injustice were seen to be incompatible with a proper “legal” approach to problems.³⁷

Despite the explicit and implicit renunciation of the role of emotion in dominant legal pedagogies and discourses, emotions do not easily “disappear” within law schools. Indeed, emotions such as anxiety and hopelessness are prevalent within law schools.³⁸ Similarly, Rhonda Magee describes what she calls a “crisis of despair” in legal education.³⁹ These observations about the sadness and anxiety experienced by many law students are mirrored by studies about unhappiness and hopelessness in the legal profession as a whole.⁴⁰

It is significant to note, however, that these emotions do not generally emerge in the public spaces and discourses of law schools. Rather, many law students and professors cultivate in their public personae and interactions an emotional style that Philip Kissam calls “coolness.”⁴¹ Kissam describes emotional coolness as a detached communicative style, where outbursts or visible displays of emotion are actively discouraged,

35. William M Sullivan, Anne Colby et al, *Educating Lawyers: Preparation for the Profession of Law* (San Francisco: Jossey-Bass, 2007) at 187.

36. Elizabeth Mertz, *The Language of Law School: Learning to “Think Like a Lawyer”* (Oxford, UK: Oxford University Press, 2007) at 128.

37. See also Duncan Kennedy, “Legal Education and the Reproduction of Hierarchy” (1982) 32 J Legal Educ 591 at 594.

38. See Julian Webb, “The Body in (E)motion” in Paul Maharg & Caroline Maughan, *Affect and Legal Education: Emotion in Learning and Teaching the Law* (Burlington, VT: Ashgate, 2011) 211 at 213.

39. Rhonda V Magee, “Legal Education and the Formation of Professional Identity: A Critical Spirituo-Humanistic—‘Humanity Consciousness’—Perspective” (2007) 31 NYU Rev L & Soc Change 467 at 467.

40. See, e.g.: Amiran Elwork & G Andrew H Benjamin “Lawyers in Distress” in David B Wexler & Bruce J Winick, eds, *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (Durham, NC: Carolina Academic Press, 1996) 569 at 569; Lawrence S Krieger, “The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness” (2005) 11 Clinical L Rev 425; Connie JA Beck, Bruce D Sales & G Andrew H Benjamin “Lawyer Distress: Alcohol-Related Problems and other Psychological Concerns Among a Sample of Practicing Lawyers (1995) 10 JL & Health 1.

41. Kissam, *supra* note 13 at 96-98.

and where feelings such as despair, hope, anger or joy are controlled.⁴² According to Kissam, emotional coolness is characterized, by detached yet friendly communications, banter about topics related to the subjects of law school, and an avoidance of deeper political or theoretical discussions.⁴³

The style of emotional coolness described by Kissam primes law students for dominant technocratic and corporatist modes of professional identity and practice. It reflects the “disciplinary force of the market,” which represses emotional attachments in favour of rational discourse and ideals of “manners”⁴⁴ and “managed hearts.”⁴⁵ Emotionally disciplined legal professionals do not become upset or enraged at systemic injustice or individual suffering but focus instead on operating within a carefully delimited terrain of legal practice. They are able to function within the relentlessly competitive atmosphere promulgated by corporate law firm culture and the adversarial culture of legal practice.⁴⁶ The detailed work of critical scholars of professional legal identity illustrates the ways in which the bodies and emotions of lawyers are disciplined and regulated into a form of “bleached out professionalism,” where lawyers are imagined as neutral, apolitical and even disembodied technocrats.⁴⁷

As critical lawyering theorists have observed, these approaches to legal practice are far from politically neutral and in fact tend to undermine progressive social movements and replicate existing societal power relations.⁴⁸ As Kissam concludes, the management of emotions within law schools assists in producing a conservative attitude of both “skepticism and apathy” towards “political ideals or ethics.”⁴⁹ In other words, the dominant “cool” emotional style promoted in law schools has distinctly political implications and promotes modes of practice that tend to uphold

42. *Ibid.*

43. *Ibid.* at 96-97.

44. See Cas Wouters, “The Civilizing of Emotions: Formalization and Informalization” in Debra Hopkins, Joshen Kleres et al, eds, *Theorizing Emotions: Sociological Explorations and Applications* (Frankfurt: Campus Verlag, 2009) 169 at 178.

45. Arlie Russell Hochschild, *The Managed Heart: Commercialization of Human Feeling* (Berkeley: University of California Press, 1983).

46. Kissam, *supra* note 13 at 68 and 98.

47. See Hilary Sommerlad, “‘Becoming’ a Lawyer: Gender and the Process of Professional Identity Formation” in Elizabeth Sheehy & Sheila McIntyre, eds, *Calling for Change: Women, Law, and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 159; Sanford Levinson, “Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity” (1993) 14 *Cardozo L Rev* 1577; David B Wilkins, “Beyond ‘Bleached out’ Professionalism: Defining Professional Responsibility for Real Professionals” in Deborah L Rhode, ed, *Ethics in Practice: Lawyers’ Roles, Responsibilities, and Regulation* (Oxford: Oxford University Press, 2000) 207 at 209.

48. See, e.g., Janet Mosher, “Legal Education: Nemesis or Ally of Social Movements?” (1997) 35 *Osgoode Hall LJ* 613 at 629.

49. Kissam, *supra* note 13 at 229.

the status quo. As critical lawyering theorists, including Gerald Lopez, Anthony Alfieri, and Janet Mosher have described, lawyers imagining themselves as expert, technocratic knowers within the delimited realm of law will tend to avoid engagement with larger politicized questions of social justice and community engagement.⁵⁰ Lopez refers to this dominant mode of legal practice as “regnant lawyering,” which is characterized by lawyers’ tendencies to focus on litigation rather than community-building, their failure to grasp how law impacts the lives of subordinated people, and their fantasies of themselves as “preeminent problem-solvers in most situations they find themselves trying to alter.”⁵¹

Certainly, lawyers do occasionally engage in dramatic emotional displays within courtroom settings.⁵² Such displays of emotion, however, are usually performed as a form of theatre.⁵³ Other overt displays of emotion by lawyers within professional contexts are rare. Indeed, lawyers tend to be reluctant to acknowledge the role of their own emotions in their professional advocacy and counseling roles.⁵⁴ While lawyers may be willing to acknowledge the emotions of their clients, clients’ emotions are generally treated as separate from the legal problem at hand. That is, lawyers tend to engage in a process of what Mertz calls the “bracketing” of emotions—the conceptualizing of emotions as separate and unrelated to the realm of law, and often unhelpful and burdensome.⁵⁵

2. *An emerging model: the “emotionally intelligent” lawyer*

Of course, it is important to note that legal practice is not homogenous but rather highly diverse. Norms of legal practice vary according to location, context, and setting.⁵⁶ Certainly, dominant technocratic approaches to legal knowledge and legal practice have been challenged with the emergence

50. Gerald Lopez, *Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice* (Boulder, Colorado: Westview Press, 1992); Anthony Alfieri, “Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative” (1991) 100 Yale LJ 2107 at 2111; Janet Mosher, *supra* note 48 at 629.

51. Lopez, *ibid* at 24.

52. As Martha Nussbaum notes, law without appeal to emotions is “virtually unthinkable,” Nussbaum, *supra* note 3 at 5.

53. See, e.g., AG Boss, “(Un)related Purposes: Theatre and Law” (2010) 142 Canadian Theatre Review 30 at 31.

54. Alan M Lerner, “From Socrates to Damasio, from Langdell to Kandel: the Role of Emotion in Modern Legal Education” in Paul Maharg & Caroline Maughan, eds, *Affect and Legal Education: Emotion in Learning and Teaching the Law* (Burlington, VT: Ashgate, 2011) 151 at 162.

55. Mertz, *supra* note 36 at 121.

56. See Mary Helen McNeal, “Slow Down, People Breathing: Lawyering, Culture and Place” (2011) 18 Clinical L Rev 183 and Robert L Nelson & David M Trubek, “Arenas of Professionalism: The Professional Ideologies of Lawyers in Context” in Robert L Nelson, David M Trubek & Rayman L Solomon, eds, *Lawyers' Ideals/ Lawyers' Practices: Transformations in the American Legal Profession* (Ithaca: Cornell University Press, 1992) 177.

of alternate paradigms. As Julie MacFarlane writes, in recent years, the culture of legal practice has shifted in significant ways. Increasing numbers of lawyers are eschewing rights-based adversarial approaches to lawyering and instead embracing collaborative lawyering approaches, mediation, and other dispute resolution techniques.⁵⁷ MacFarlane argues that these shifts represent a movement towards what she terms “the new lawyer.” The new lawyer, she writes, is distinguished by his or her emphasis on negotiation skills, client-centred approach, and commitment to interpersonal communication skills.⁵⁸ Significantly, she writes, the “new lawyer” must be adept in the area of “emotional intelligence” as well as legal intelligence. Emotional intelligence, according to MacFarlane, includes attributes such as “empathy, self-awareness, optimism, and impulse control.”⁵⁹

MacFarlane embraces the emotional dimensions of lawyering, advocating that lawyers must have insight into their own and their clients’ emotions in order to effectively work with them to resolve their legal matters.⁶⁰ She writes:

[R]ejecting the traditional assumption that emotions and feelings can somehow be excluded from the lawyer-client relationship, the new lawyer should accept that it is inevitable that her personal feelings and biases will become woven into her lawyering practice.⁶¹

Other advocates of alternative paradigms of legal practice similarly emphasize the need for lawyers to become more adept at working with and understanding their own and their clients’ emotions. Various writers, promoting “affective,” collaborative, and client-centred approaches to legal practice, focus on the centrality of emotions in law and lawyering, echoing the themes emerging from MacFarlane’s work. The literature in this area tends to rely on discourses of emotional intelligence, which promote a view of emotions as private attributes of individuals. As Zembylas points out, discourses of emotional intelligence are often characterized by a view that emotional intelligence is “a set of skills hypothesized to contribute to the accurate appraisal and expression of emotion in self and others, and the use of feelings to motivate, plan, and achieve in one’s life.”⁶²

57. Julie MacFarlane, *The New Lawyer: How Settlement is Transforming the Practice of Law* (Vancouver, BC: UBC Press, 2008) at 23-24.

58. *Ibid* at 23.

59. *Ibid* at 23-24.

60. *Ibid* at 152.

61. *Ibid* at 155-156.

62. Zembylas, *supra* note 9 at 163.

Significantly, the literature advocating for affective lawyering, collaborative lawyering, and client-centred lawyering tends not to shift its focus from the lawyer-client relationship itself and the emotional dynamics within this relationship. Marjorie Silver writes about the feelings of “love” and “hate” within the lawyer-client relationship,⁶³ and Jane Spinak focuses upon the emotional reactions of a lawyer to traumatic stories of her client. This body of scholarship tends to accept that emotions are natural and private. The image of the emotionally intelligent lawyer that emerges from this body of literature is one of a legal professional who is compassionate and empathetic towards individual clients and who maintains a serene and even-keeled approach to legal problems. The emotionally intelligent lawyer is self-reflective and aware of her or his own emotional reactions towards her clients, but does not tend to analyze or engage with the larger contexts that shape the legal troubles of her clients. Furthermore, she or he works to acknowledge her or his own emotions, but also works to keep these feelings in check, even while being open to the emotions of her client.⁶⁴ Emotionally intelligent lawyers are able to use their emotional skills to better assist clients in achieving their goals and to better reduce interpersonal conflicts between clients.

How is the emotion of anger approached in this body of literature? One example is found in the work of Peter Ladd. In his study on the role of emotions within the dispute resolution processes of mediation and conciliation, Ladd dedicates a chapter specifically to the role of anger in dispute resolution processes. Throughout the chapter, Ladd describes anger as a retreat from rationality.⁶⁵ Anger, Ladd writes, emerges from “unreasonable thinking” which itself can be related to unreasonable “lifestyle decisions” of the angry person.⁶⁶ He encourages practitioners to approach the anger of clients by focusing on “restoring rationality,” and sets out various techniques to employ to this end.⁶⁷ Ladd’s approach locates the source of anger in irrationality and individual lifestyle decisions. Thus, it is an individual problem that can be addressed through a return to rational thinking, rather than an analysis of systemic violence or political forces that have created injustice in a client’s life. Furthermore, by focusing on

63. Marjorie A Silver, “Love, Hate, and other Emotional Interference in the Lawyer/Client Relationship” (1999) 6 Clinical L Rev 259 at 259; Jane M Spinak, “Reflections on a Case (of Motherhood)” (1995) 95 Colum L Rev 1990 at 1992.

64. Macfarlane, *supra* note 57 at 156.

65. Peter D Ladd, *Mediation, Conciliation and Emotions: A Practitioner’s Guide for Understanding Emotions in Dispute Resolution* (Lanham, Maryland: University Press of America, 2005) at 64-65.

66. *Ibid* at 69.

67. *Ibid* at 79.

the anger and irrationality of some clients, Ladd constructs an image of the dispute resolution practitioner that is in touch with emotions and yet resolutely rational.

Overall, it seems that approaches to legal practice that emphasize the affective and interpersonal dimensions of lawyering tend to view emotions as pertaining to individual relationships. These approaches tend to view emotions as being of interest in terms of a private, therapeutic notion of the lawyer-client relationship. Emotions are not subject to critical analysis or analyzed in terms of their meanings in the context of larger questions of justice and injustice. Rather, lawyers are urged to gain skills in “emotional intelligence.” Lawyers are encouraged to learn how to acknowledge, diffuse, and manage their own and their clients’ emotions.

III. *Emotions, moral outrage, and clinical legal education: the existing literature*

Despite the often emotionally charged nature of clinical law experiences, only a small body of clinical law literature concerns itself directly with the role of emotions in clinical legal education (and no Canadian clinical law scholarship focuses specifically upon the role of emotions). For example, Laurel Fletcher and Harvey Weinstein write that clinical law supervisors must acknowledge the highly emotional nature of clinical law work for many students.⁶⁸ Students’ emotional reactions, argue Fletcher and Weinstein, directly impact the delivery of legal services in clinical law programs. Emotional intelligence is a key aspect of legal work in clinical contexts, they write, and therefore clinical law supervisors must focus on showing students how to attend to the affective dimensions of the lawyer client relationship. Fletcher and Weinstein’s article is helpful in many respects in teaching students how to work in respectful and holistic ways. This is crucially important in clinical law contexts. However, Fletcher and Weinstein do not explicitly connect the emotional responses to legal practice to larger systemic injustices, nor do they critique dominant assumptions about emotions as personal, private reactions of individuals to situations and conflicts.

Ann Juergens also has written about the role of emotions in clinical legal education settings. She notes that clinical law supervisors should model a healthy and open approach to emotions.⁶⁹ Juergens also focuses on the importance and the emotional implications of “community connections” in clinical law work. She urges clinical law supervisors to maintain and

68. Fletcher & Weinstein, *supra* note 2.

69. *Supra* note 2 at 418.

nurture connections with community organizations and activists as a crucial part of their work. Juergens writes that keeping community connections strong can remind lawyers to attempt to find resolutions for clients that “take the larger fabric into account” when addressing legal problems.⁷⁰ She writes that community engagement can also assist lawyers and students in converting rage at injustice into constructive actions, but she does not describe how this process might unfold.⁷¹ Juergens describes her ultimate goal as being the promotion of the “emotional health” of lawyers and law students involved in clinical programs.⁷² Thus, although Juergens touches upon the ways in which moral outrage might play a role in clinical legal education, and focuses on the importance of a broader view of emotions, her article does not provide particular critical direction regarding how moral outrage might be harnessed towards social justice.

Clinical law professor Abbe Smith has written specifically about the role of moral outrage in poverty law practice. Smith describes in detail the role of moral outrage in criminal law defense work for indigent clients. She draws on the idea that outrage can be an indicator of injustice and a motivator for action for poverty lawyers. Smith notes that moral outrage is a motivating emotion that “supplies combustion” for poverty lawyers.⁷³ She defines this motivating feeling as “a sense of moral outrage, the sort of outrage that accompanies *conviction*...outrage as principled resistance.”⁷⁴ She argues that given the structural and systemic injustices faced by indigent clients, it is impossible to work as a legal advocate in this context without finding occasion for outrage at injustice.⁷⁵ The morally outraged lawyers depicted by Smith utilize their outrage as inspiration and fuel for their legal advocacy. Drawing on the injustice after injustice faced by their clients, these lawyers are motivated to keep fighting on behalf of their clients. Interestingly, Smith writes that many of her clients fail to demonstrate outrage about their own situations, but rather often appear to accept injustice as inevitable.⁷⁶ Thus, in Smith’s depiction, it is the lawyers who are the primary bearers of moral outrage, they are the agents who engage and confront unjust systems on behalf of their clients.

Thus, the small body of scholarship about the role of emotions in clinical legal education contexts grapples with the highly emotional nature

70. *Ibid* at 422.

71. *Ibid.*

72. *Ibid.*

73. Smith, *supra* note 10 at 1259.

74. *Ibid.*

75. *Ibid.*

76. *Ibid* at 1261.

of clinical law practice and the feelings evoked in lawyers and law students as they work on behalf of clients. However, there remains room for a critical consideration of the role of emotions generally, and of the emotion of moral anger in particular, in clinical law contexts and pedagogies.

IV. *Critical "readings" of moral anger in clinical legal education*

Students at the clinic associated with my law school have worked with clients who have been criminalized based on HIV status, who have been assaulted by police, and who have lived in rental units where landlords have failed to provide heat during cold winter months. Students have experienced highly charged situations in trial and administrative hearing contexts. They have witnessed times when actors within the legal system fail to "hear" the stories of injustice told by their clients and subsequently fail to provide substantive justice to their clients.⁷⁷ At times, they catch glimpses through the eyes of their clients of a reality where the rule of law is much more tenuous than they were led to believe in their courses at law school.⁷⁸ Many of my students have expressed these feelings of outrage in clinical law seminar discussions or have articulated their feelings in their critical journal reflections about their experiences.

These stories and glimpses into the worlds of clients at the clinic may function as "disorienting moments" for law students who find that their conceptions of justice and the role of law in achieving social justice have been challenged through their clinical experiences. As Fran Quigley has observed:

Most...students come to the course without significant exposure... representing a person trying to wring a just result from an often unresponsive legal system. When the learners are confronted with their clients' very real suffering and frustration, the learners' necessarily abstract understanding of social justice often prevents assimilation of the experience. Hence, disorientation occurs[.]⁷⁹

77. For analysis and commentary on the failures of legal decision-makers and lawyers to hear stories of clients, see, generally, Lucie E White, "Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G." (1990) 38 Buff L Rev 1; Barbara Bezdek, "Silence in the Court: Participation and Subordination of Poor Tenants' Voices in Legal Processes" (1992) 20 Hofstra L Rev 533; and Christopher P Gilkerson, "Poverty Law Narratives: the Critical Practice and Theory of Receiving and Translating Client Stories" (1992) 43 Hastings LJ 861.

78. See Janet Mosher, "Lessons in Access to Justice: Racialized Youths and Ontario's Safe Schools" (2008) 46 Osgoode Hall LJ 807 for a discussion of the ways in which marginalized youth in Toronto experienced an absence of the rule of law in their interactions with police and school administrators.

79. See Fran Quigley, "Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics" (1995) 2 Clinical L Rev 37 at 53.

This feeling of outrage or indignation about injustice may for some students, as it does for Abbe Smith, fuel a feeling of responsibility to “fight for justice” on behalf of their clients. The feeling of outrage may spark a sense of courage, motivation, and dedication for students. Certainly, this energizing impact of moral anger is significant in that it may “be regarded as an emotion that forces confrontation...[that] has the potential to disrupt existing power relations.”⁸⁰

However, in this section I argue that if clinical law students and lawyers fail to critically interrogate our emotional responses in these contexts, we may unwittingly assume that our responses of outrage are sufficient “gauges” of injustice and that our feelings legitimate certain responses on the part of legal professionals. Very often, these responses envision lawyers and the legal system at the centre of the solution to clients’ troubles and give law students and lawyers a privileged role in addressing these problems. These responses dwell on the lawyer-client relationship and view the lawyer as the central agent in the quest to address injustice. Such responses can function to stultify broader, politicized, and community-centred approaches to advocacy and legal practice.

What is required is an ability to critically interpret and “read” our emotional responses in clinical legal education contexts and an understanding that our feelings always involve interpretation. As Sara Ahmed writes, the emotion of anger always involves a “reading” of pain or injustice and therefore always requires interpretation.⁸¹ The question, then, for Ahmed, is “[w]hat form of action is possible *given that reading*?”⁸² For law students, pre-established ideas about justice, social relations, and the role of lawyers inform this process of interpretation and also, as described above, may inform ideas about the proper response by lawyers. A critical reading of our feelings of outrage and indignation at injustice thus requires us to interrogate existing assumptions about justice, the role of law, and legal systems in addressing injustice and the role of lawyers in this process. It requires us to seek to “move...from anger into an interpretation of that which one is against, whereby associations or connections are made between the object of the anger and broader patterns or structures.”⁸³ This process is what Michalinos Zembylas might describe as the “politicization”

80. Linda Grasso, *The Artistry of Anger: Black and White Women's Literature in America, 1820–1860* (Chapel Hill, NC: University of North Carolina Press, 2002) at 11.

81. Ahmed, *supra* note 14 at 175.

82. *Ibid* at 175 [emphasis in original].

83. *Ibid* at 176.

of emotions in educational contexts, which he advocates is a crucial means for addressing questions of “otherness, difference, and power.”⁸⁴

In the sections that follow, I suggest three aspects or components of a critical reading of moral anger in clinical legal education contexts. The first aspect involves recognition and acknowledgement of moral anger in clinical law contexts. This is important given prevailing approaches to the disciplining and management of strong emotions in legal practice and pedagogies. Second, a critical reading of moral anger requires lawyers and law students to resist an approach in which our “feeling” of moral anger compels us to embrace “epistemological imperialism” and regnant lawyering practices which blind us to critical self-reflection.⁸⁵ Third, I discuss ways in which moral anger might be directed towards potentially transformative and community-based approaches to practice characterized by collaboration, humility, and mutuality.

1. *Recognizing and affirming moral anger in clinical law contexts*

In clinical law contexts, pedagogies focused on critical analysis of emotional responses must recognize that law students are constantly contending with dominant discourses and understandings about the role of emotions in law and legal practice. As discussed earlier, these discourses construct emotions as falling outside the realm of law, and promote technocratic portrayals of “cool” and “tough” lawyers. While these dominant images of lawyers might be tempered by alternate images of “emotionally intelligent” lawyers, the discourses about these “new” lawyers also tend to portray emotions as private and manageable attributes that do not function to challenge power structures.

Thus, law students inevitably carry with them various ideas about the role of emotions and the importance of regulating emotional reactions in legal practice. Because of the dominant negative approach to overt expressions of emotions in legal education contexts, many law students may understand reactions of moral outrage as being upsetting, unprofessional, and “outside” the bounds of the legal realm in which they are operating. Some students whose interactions with clients, the legal system, or other aspects of their clinical work spark feelings of outrage at injustice may experience an urge to temper and regulate these feelings and to identify them as “out of place” in a clinical law environment.

It is crucial then to acknowledge dominant discourses about emotions within legal education contexts and to engage students in a process of

84. Zembylas, *supra* note 9 at 16.

85. See Imai, *supra* note 5 at 197.

analyzing the ways in which these dominant understandings work to “discipline” and constitute their feelings. Thus, acknowledging emotions such as moral outrage in clinical law contexts can represent a challenge to dominant ideas in legal education contexts.

The process of encouraging students to analyze their emotional responses to their clinical law experiences and to analyze the ways in which dominant ideas about lawyers and emotions shape these feelings, may be risky from a pedagogical perspective. Clinical law teachers may be wary of acknowledging emotions or expressing their own emotional reactions for fear of being identified as being “touchy-feely” or “soft.” As Margaret Thornton points out, law professors often deliberately frame their subject matter in a “hard,” rational, and technocratic fashion in order to gain legitimacy within the discipline.⁸⁶ Thus, acknowledging and discussing emotional responses at all is an important initial step.

2. *Anger, power, and “feeling better”*

A critical reading of moral anger in clinical law contexts should, after acknowledging the feeling, examine the ways that feelings of anger may perpetuate dominant power structures in lawyer-client relationships. It must question to what extent the feeling of moral outrage allows the subject of that emotion to, in fact, “feel better” about injustice.⁸⁷ It must resist an approach to emotions that becomes what Kathleen Woodward calls “a kind of narcissistic self-regard that blocks a commitment to structural transformation.”⁸⁸

Sara Ahmed’s theoretical work on emotions and moral anger provides a helpful framework for this task. By examining the ways in which dominant media focuses on eliciting emotional reactions from privileged, Western readers—including the emotion of moral outrage—on behalf of victims of poverty, famine, or violence in far-flung parts of the world, Ahmed points out the ways in which emotions can reproduce dominant power relations.⁸⁹ She notes that certain spectres of injustice (for example, individual stories of the suffering of children) may evoke strong emotional reactions, whereas other stories of injustice will fail to evoke any feelings at all.⁹⁰ Indeed, as Megan Boler points out, our failure to invest emotionally in so many issues and injustices is indicative of “emotional selectivity”

86. Thornton, *supra* note 13 at 373.

87. Ahmed, *supra* note 14 at 201.

88. Kathleen Woodward, *Statistical Panic: Cultural Politics and Poetics of the Emotions* (Durham, NC: Duke University Press, 2009) at 56.

89. Ahmed, *supra* note 14 at 197.

90. *Ibid* at 191-192.

or emotional “(in)attention,” which are habits that may privilege certain political and ideological narratives.⁹¹ This recognition reminds us that our feelings are not, in fact, entirely accurate gauges of injustice, but are rather mediated through pre-existing frames.⁹²

Ahmed also points out that although stories of injustice, war, and violence are disconcerting for spectators, emotions such as grief and moral outrage function to allow these privileged Western spectators to “feel better” about the injustices that they are witnessing through subsequent discourses of compassion and charity. Ahmed explains that this happens through the production of the figure of the dominant Western subject, who experiences emotions “about” others who become “objects of feeling.” Ahmed writes that feelings of anger that Western subjects may experience “when faced with the other’s pain is what allows the [subject] to enter into a relationship with the other, premised on generosity rather than indifference.”⁹³ She goes on to explain that the feeling of anger “about” the suffering or injustice experienced by others by dominant Western subjects is “an ‘aboutness’ that ensure[s] that they remain the object of our ‘feeling.’”⁹⁴

By feeling strongly “about” the “objects” of injustice, Ahmed argues that privileged members of Western society are able to effectively erase histories of colonialism through discourses of charity, compassion, and action on behalf of victimized and marginalized people.⁹⁵ Ahmed’s observation is similar to Megan Boler’s caution that our emotions may function as ways of permitting ourselves to abdicate or separate from oppressive histories.⁹⁶ While separating from histories of oppression, dominant subjects of emotion may also actively “claim” power and recognition by engaging in charitable actions and requiring gratitude for these actions.⁹⁷ It is for these reasons that Ahmed argues that feeling intensely about an injustice is not “necessarily to repair the costs of injustice. Indeed, this conversion can repeat the forms of violence it seeks to redress, as it can sustain the distinction between the subject and object of feeling.”⁹⁸

91. Boler, *supra* note 29 at 185-186.

92. For a discussion of the functions of “frames,” see Judith Butler, *Frames of War: When is Life Grievable?* (London, UK: Verso, 2009) 5-12.

93. Ahmed, *supra* note 14 at 21.

94. *Ibid.*

95. *Ibid* at 22.

96. Boler, *supra* note 29 at 186.

97. Ahmed, *supra* note 14 at 192-193.

98. *Ibid* at 193.

Ahmed's critical insights about emotions generally, and moral anger in particular, assist in the process of critically reading moral anger in clinical law contexts. First, Ahmed's observation that our emotional responses are often selective and mediated reminds us to examine the dominant legal and moral frames through which lawyers and law students assess and gauge injustice in the lives of our clients. It also reminds us that the individualized stories of clients at legal clinics are often connected to larger and systemic patterns and structures and that the solutions to these endemic problems are never found solely through an emphasis on individual relationships with clients or individualized advocacy.⁹⁹

Ahmed's caution—that feeling strongly about injustice is not necessary to fix the personal and societal costs of injustice—is important in that it reminds clinical lawyers and students to examine urges towards “rescue fantasies” and ideas about their own agency to enact change on behalf of clients.¹⁰⁰ Thus, clinical legal educators should be careful that feelings of “moral anger” on behalf of clients are not experienced as a means to simply “feel better” about injustice and to legitimize and fuel a sense of our own agency in achieving solutions to injustice. Certainly, lawyers who seek to insert themselves at the centre of solutions for clients are very likely to be ineffective at working within communities that seek social change.¹⁰¹ Indeed, Alfieri and others warn of the potential for lawyers to replicate unequal power relations in their relationships with clients: lawyers tend to “reenact the cultural and socio-economic marginalization of poor clients and communities in their advocacy.”¹⁰² Lawyers who subject their feelings to a critical reading may thus find that clients do not seek rescuing, but, in fact, have actively resisted oppressive structures and have developed many tactics, goals, and alliances with larger communities that can be engaged in the struggle for social justice.¹⁰³ In other words, lawyers engaged in a critical reading of their feelings of moral anger will recognize that feelings are not in fact gauges of injustice, nor are they necessary to fix injustice. While engaging in heroic legal interventions may help clinical lawyers and students “feel better,” these interventions rarely address the systemic

99. See, generally, Sameer M Ashar, “Law Clinics and Collective Mobilization” (2008) 14 Clinical L Rev 355.

100. Peter Margulies, “Re-framing Empathy in Clinical Legal Education” (1999) 5 Clinical L Rev 605 at 620-621.

101. Lopez, *supra* note 50 at 23-25. See also William P Quigley, “Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations” (1994) 21 Ohio NUL Rev 455.

102. Anthony V Alfieri, “Faith in Community: Representing ‘Colored Town’” (2007) 95 Cal L Rev 1829 at 1852.

103. See discussion in Ashar, *supra* note 99 at 356-357.

roots of the troubles that persist in the communities of our clients and may serve to reproduce and entrench power relations between lawyer and clients.

2. *Moving from moral outrage to social justice*

Zembylas and Chubbuck state that emotions are “socially and politically formed components of action, serving a crucial role in either addressing injustice or sustaining the status quo.”¹⁰⁴ As I have argued above, without a critical and politicized “reading” of our feelings and anger about injustice, clinical lawyers and students may assume that they play a central role in addressing the injustice experienced by clients and may fail to interrogate whether their practices in fact promote a change to the status quo. Furthermore, because traditional regnant approaches to legal practice seldom lead to the amelioration of systemic injustice experienced by clients and communities, students spurred on by moral outrage to confront injustice through traditional legal approaches will also find themselves disappointed and possibly deflated.¹⁰⁵ How then can we “read” moral anger in a way that has transformative and social justice implications? How can anger be channeled into what Zembylas and Chubbuck term “activism against inequality”?¹⁰⁶

While a response of moral outrage at injustice may alert us to conditions of injustice, we must recognize that our initial “reading” of the situation is at best partial. We must therefore seek a deeper understanding and a wider view through a contextual and community-informed understanding. As Zembylas writes, “the first step in using anger as a mode of thoughtful analysis...is to understand where anger is coming from and what power relations are involved.”¹⁰⁷ Such an approach would urge us to ask questions including: what is the community and political context in which the injustice has arisen? What is already being done within the community on this issue? How do our individual clients affected by the specific situation or law perceive the problem? How do community allies think lawyers can or should be involved? Our reading of injustice is not complete without the assistance of clients and the community. This requires us to be alert to the

104. Michalinos Zembylas & Sharon Chubbuck, “Emotions and Social Inequalities: Mobilizing Emotions for Social Justice Education” in PA Schultz & Michalinos Zembylas, eds, *Advances in Teacher Emotion Research: The Impact on Teachers' Lives* (Boston, MA: Springer-Verlag, 2009) 343 at 348.

105. See discussion in Margot Young, “Why Rights Now? Law and Desperation” in Margot Young, Susan B Boyd et al, eds, *Poverty: Rights, Social Citizenship, Legal Activism* (Vancouver, BC: UBC Press, 2007) 317 at 331.

106. Zembylas & Chubbuck, *supra* note 104 at 355.

107. Zembylas, *supra* note 9 at 131.

spaces where clients and communities are actively resisting injustice and contemporary forms of colonialism in their communities and strategizing against multiple layers of oppression.¹⁰⁸

In other words, what is required is a committed and “long-haul” approach that values relationships with communities, seeks understandings from clients and communities about the sources of injustice, and analyzes what approaches the community takes to anger and healing.¹⁰⁹ In the context of the Canadian prairie city in which I live, this requires a commitment to understanding Indigenous approaches to colonialism and healing. For example, an Elder speaking as part of a Commission on First Nations and Métis Peoples and Justice Reform dialogue, in addressing the feelings of anger and trauma evoked by residential schools, stated that “the spirituality of our people is what pulled us through all these trials and traumas in our lives.”¹¹⁰ In other words, communities who have experienced long term traumas, oppression, and the “violence of law” best understand how to approach feelings of anger and rage at injustice and how to work towards healing.¹¹¹

As long-time community activists have explained, the struggle for social justice is one that must be characterized by patience and a willingness to see small victories in a slow journey full of setbacks.¹¹² It is for this reason that social justice lawyers who work closely with communities are apt to describe love and hope as more important than outrage and anger at injustice as emotions that are sustaining. For example, William Quigley has written that love and hope must lie at the centre of social justice advocacy.¹¹³ This is reminiscent of the observations of Zembylas and Chubbuck, who suggest that educators must find ways to encourage the cultivation of emotions including excitement, love, and hope.¹¹⁴

108. For a discussion of contemporary colonialism in Canada, see Taiaiake Alfred & Jeff Corntassel, “Being Indigenous: Resurgences Against Contemporary Colonialism” in Martin J Cannon & Lina Suseri, eds, *Racism, Colonialism, and Indigeneity in Canada* (Oxford, UK: Oxford University Press, 2011) 139.

109. The term “long-haul” in relation to the work of lawyers in communities is from Susan D Bennett, “On Long Haul Lawyering” (1997–1998) 25 *Fordham Urb LJ* 771.

110. See J Wilton Littlechild, Chair, “Commission on First Nations and Métis Peoples and Justice Reform: 2003 Interim Report and 2004 Final Report” in Wanda D McCaslin, ed, *Justice as Healing: Indigenous Ways* (St. Paul, MN: Living Justice Press, 2005) 324 at 332.

111. For a discussion of law’s violence, see, generally, Austin Sarat, ed, *Law, Violence, and the Possibility of Justice* (Princeton, NJ: Princeton University Press, 2002).

112. See Susan D Bennett, “On Long Haul Lawyering” (1997–1998) 25 *Fordham Urb LJ* 771; and Ascanio Piomelli, “Sensibilities for Social Justice Lawyers” (2013) 10 *Hastings Race & Pov LJ* 177 at 187.

113. William P Quigley, “Letter to a Law Student Interested in Social Justice” (2007–2008) 1 *DePaul J Soc Just* 7 at 27–28.

114. Zembylas & Chubbuck, *supra* note 104 at 355.

Conclusion

This article has attempted to make a contribution to the growing scholarship on law and emotions through a focus on the “troubling” emotion of moral anger in clinical legal education contexts. Drawing on critical emotions theories, I have argued that dominant rational or technocratic approaches to emotions inadequately account for the role of emotions in legal practice generally, and in poverty law contexts in particular. I have also argued that emerging ideas about the “emotionally intelligent lawyer” also fail to provide necessary critical insights about emotions—and especially the emotion of moral anger—in clinical law contexts. Moral anger is troubling because we tend to understand it as a gauge of injustice and as a source of fuel for lawyers to address injustice. Lawyers working in poverty law contexts witness many occasions for moral anger in their day-to-day work. As I have argued here, the challenge is to ensure that we are engaging in careful and critical “readings” of our feelings of moral anger so that our anger does not motivate the replication of regnant lawyering practices on “behalf” of clients.

Certainly, there are ways in which clinical law students and teachers might engage in this task. Learning from communities’ resistance to colonialism and oppression and learning, in particular, about how clients and members of these communities understand the role of anger in struggles for justice, must be a crucial part of the process. It is important to discuss emotions and the ways in which these emotions are culturally mediated, and to critically analyze the ways in which emotions may function to replicate dominant regnant notions of the lawyer-client relationship. As Abbe Smith reminds us, in clinical and poverty law practice “[t]he outrages just keep coming.”¹¹⁵ In other words, legal practice in clinical law contexts is an emotional undertaking. It is important that clinical educators and students examine our troubling feelings about our work carefully and try to learn how these feelings might move us towards a critical and community-engaged quest for understanding and social justice.

115. *Supra* note 10 at 1259.